

**Minutes of the
Tobacco Education and Research Oversight Committee (TEROC)**

Meeting on Tuesday, January 25, 2011
Sheraton Grand Hotel
1230 J Street
Sacramento, CA 95814

MEMBERS PRESENT:

Ms. Pat S. Etem, Dr. Lawrence Green, Dr. Alan Henderson, Dr. Pamela Ling,
Mr. Naphtali Offen, Dr. Michael Ong (Chair), Ms. Peggy Uyeda, Ms. Kathleen
Velazquez, Dr. Valerie Yerger, Dr. Shu-Hong Zhu

MEMBERS ABSENT:

Dr. Lourdes Baezconde-Garbanati, Dr. Wendel Brunner, Dr. Dorothy Rice

OTHERS IN ATTENDANCE:

Dr. Bart Aoki, University of California, Office of the President (UCOP),
Tobacco-Related Disease Research Program (TRDRP)
Majel Arnold, California Department of Public Health (CDPH), California Tobacco
Control Program (CTCP)
Dr. Greg Austin, WestEd
Glen Baird, CTCP
Kimberly Bankston-Lee, Saving our Legacy (SOL) Project/Sacramento Taking
Action Against Nicotine Dependence (STAND)/African American Tobacco
Control Leadership Council (AATCLC)
Hilva Chan, California Department of Education (CDE), Coordinated School
Health and Safety Office (CSHSO)
Dr. Mary Croughan, UCOP
Dr. Phillip Gardiner, TRDRP
Carol D'Onofrio, Consultant
Tonia Hagaman, CTCP
Tom Herman, CDE, CSHSO
Kelly Honda, American Cancer Society (ACS)
Jerry Katsumata, CTCP
Michelle Komlenic, Air Resources Board (ARB)
Jim Knox, ACS
Dr. Caroline Kurtz, CTCP
John Lagomarsino, CDE
Twlia Laster, SOL Project/AATCLC
Dr. Donald Lyman, CDPH
Dr. Tim McAfee, Centers for Diseases Control and Prevention (CDC)
Carol McGruder, AATCLC and URSA Institute
Terry Sue Mock, American Heart Association (AHA)
Jamie Morgan, AHA
Dr. Todd Rogers, Public Health Institute (PHI)
April Roeseler, CTCP

Nadine Roh, CTCP
Alecia Sanchez, ACS
Patti Seastrom, CTCP
Julia Shrader-Lauinger, California Youth Advocacy Network (CYAN)
Gordon Sloss, CTCP
Dr. Kurt Snipes, CDPH
Colleen Stevens, CTCP
Carolyn Suer, ARB
Kimberly Weich Reusché, American Lung Association of California (ALAC)
Greg Wolfe, CDE, CSHSO

1. WELCOME, INTRODUCTION, AND OPENING COMMENTS

Tobacco Education and Research Oversight Committee (TEROC) Chair Michael Ong called the meeting to order at 9:20 a.m. TEROC members and guests introduced themselves.

2. APPROVAL OF MINUTES FROM SEPTEMBER 28, 2010 TEROC MEETING, CORRESPONDENCE, AND ANNOUNCEMENTS

Acceptance of Minutes moved by Dr. Green, seconded by Dr. Yerger, motion carried unanimously.

Outgoing Correspondence and Related Incoming Correspondence:

The Chair reviewed correspondence, including:

- Letter from TEROC Chair to California Department of Public Health (CDPH) Director, Dr. Mark B Horton, regarding the status of Centers for Disease Control and Prevention (CDC) Funding Awards to CDPH, dated October 19, 2010.
- Reply from Dr. Donald Lyman to Chair regarding CDC funding awards, dated November 18, 2010.
- Letter from TEROC Chair to Governor Arnold Schwarzenegger regarding the Chief, California Tobacco Control Program (CTCP), dated November 18, 2010. The Chair indicated more information would be provided during the CDPH report.
- Letter from TEROC Chair to Secretary Kathleen Sebelius, U.S. Department of Health and Human Services (HHS), regarding Tobacco Control Research at the National Institutes of Health (NIH), dated November 24, 2010.
- E-Mail from Dr. Lawrence Green regarding tobacco research at NIH, dated November 19, 2010:
 - Attachment: Letter from Society for Research on Nicotine and Tobacco to NIH, dated November 19, 2010.

The Chair reported that while a new Institute on Addiction is moving forward, no changes have been implemented regarding tobacco research.

- Letter from TEROC Chair to Dr. Tim McAfee, Director, Office on Smoking and Health (OSH), CDC, regarding appearance at TEROC on January 25, 2011, dated December 22, 2010.
- E-Mail from Chair to Legislators regarding TEROC Master Plan Field Input Survey, dated January 19, 2011.

Other Incoming Correspondence:

The Chair reviewed correspondence, including:

- E-Mail from Dr. George Lemp regarding the tobacco control program and lower lung cancer rates in California, dated September 30, 2010:
 - Attachment: Press Release, dated September 30, 2010.
- E-Mail from Julia Schrader-Lauinger, California Youth Advocacy Network (CYAN), regarding tobacco imagery in youth-rated films, dated October 1, 2010:
 - Attachment 1: Letter to TEROC, dated September 30, 2010.
 - Attachment 2: Sample letter to California Film Commission (CFC).
 - Attachment 3: Study by Center for Tobacco Control Research and Education, University of California, San Francisco (UCSF), dated November 10, 2009.
- E-Mail from Julia Schrader-Lauinger regarding tobacco imagery in youth-rated films, dated January 19, 2011:
 - Attachment 1: Revised Sample letter to CFC.
 - Attachment 2: Fact Sheet on Smoking in California Films

Ms. Schrader-Lauinger discussed her correspondence with members. Ms. Etem asked whether the draft letter to CFC had been finalized and sent. Ms. Schrader-Lauinger indicated that a draft was close to being finalized and reflects movies that included tobacco imagery and received film subsidies in the last year. Any additional correspondence to CFC would be welcomed. Ms. Schrader-Lauinger confirmed the Study by the Center for Tobacco Control Research and Education, UCSF, will be attached to the letter. Dr. Green suggested adding references to research substantiating the hazards of tobacco imagery in films for youth smoking. The Chair noted a TEROC response on the issue would be timely since the first California tax credits will be effective this year.

Ms. Schrader-Lauinger indicated CYAN has only worked on the tobacco issue, and has not collaborated with campaigns against alcohol in films. She confirmed Dr. Stan Glantz is aware of the campaign.

Action Item

Dr. Green moved that TEROC write to CFC expressing concern regarding subsidies to films with tobacco imagery. Ms. Velazquez seconded the motion. Members suggested the letter stress that the movement to end film subsidies is a nation-wide effort, and refer to other national efforts to reduce youth smoking. The motion carried, with Dr. Zhu abstaining.

- E-Mail forwarding a survey request from the Tobacco-Related Disease Research (TRDRP) Program Scientific Advisory Committee (SAC), dated Nov. 12, 2010. The Chair confirmed this was a request directed to individual TEROC members to participate and no further action is required.
- E-Mail from Dr. Lawrence Green regarding Assembly Concurrent Resolution 129, dated January 7, 2011:
 - Attachment: Assembly Concurrent Resolution 129
Dr. Green indicated the Resolution calls for state agencies to consider the implications of international treaties. In its oversight function, TEROC could consider linking tobacco issues to international treaties (e.g. considering tobacco imagery in films and the United Nations Convention on the Rights of the Child). Dr. Green indicated that even if treaties were not ratified by the U.S., California can still stress the importance of the principles as a point of reference. The Master Plan includes support for ratification of the World Health Organization's (WHO) Framework Convention on Tobacco Control.
- E-mail from Dr. Valerie Yerger regarding TRDRP Funding, dated January 20, 2011:
 - Attachment: *Burning Issues* Newsletter, Vol. 6, No. 3, April 2004.
Dr. Yerger expressed concern regarding the potential for increased diversion from the Proposition (Prop) 99 Research Account to the Cancer Registry.

3. **ENVIRONMENTAL DEVELOPMENTS AND BUDGET UPDATE**

The Chair indicated a Department of Finance (DOF) representative was unable to attend today's meeting. The Chair highlighted the following items from the Prop 99 Expenditure Plan Summary from the 2011-12 Governor's January Budget:

- Reductions to the California Department of Education (CDE) and the Resources Agency for 2010-11 due to technical adjustments.
- A 1.4 percent decline in overall 2011-12 allocations from 2010-11 levels.
- A decline in Projected Revenue from \$285 million in 2010-11 to \$277 million in 2011-12. Clarification could be sought on why this estimated decline is smaller than declines observed in actual tax revenues in recent years, how it is estimated, and whether any effect from the new tax stamp has been considered.
- Low levels in Reserve Accounts for 2011-12.

Discussion ensued on rising Board of Equalization (BOE) fees, and a 62.2 percent increase in the State Controller's allocation for 2011-12. The Chair confirmed that Prop 99 language does not require that all agencies receiving Prop 99 funds allocate them to cessation or tobacco control measures.

A 3.8 percent decline is projected for the TEROC/Evaluation Surveillance line item for 2011-12, and a breakdown of fund allocations was requested for the next meeting. TEROC has not traditionally had any greater oversight role for these funds. Discussion ensued on how DOF formulates the budget allocations, input from the agencies, political considerations, and TEROC's advisory role in making recommendations on allocations in the absence of having fiscal powers.

The impact of budget cuts was discussed. Ms. Stevens indicated that CTCP's allocation had been relatively stable in recent years, but reductions had been planned for. Further reduction will lead to more difficult decisions.

The Chair also reported the following Environmental Developments and new reports and articles:

- U.S. Department of HHS, *Healthy People 2020*
- U.S. Surgeon General, *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*
- National Prevention Council's *Strategic Direction for Tobacco*, which includes recommendations for tobacco-free environments and cessation.
- CDC, *Health Disparities and Inequalities Report, 2011*
- Wendy Max, et al, *Cost of Smoking for California's Hispanic Community*
- American Lung Association (ALA), *State of Tobacco Control 2010*.
California's rankings for 2010 are: an "A" for smoke-free air laws; a "D" for cigarette tax rate; an "F" for tobacco prevention and control program funding; and an "F" for coverage of cessation treatments and services.

4. CALIFORNIA CANCER REGISTRY UPDATE

Kurt Snipes, CDPH, California Cancer Registry (CCR), provided an overview of activities relating to use of Prop 99 funds. CCR conducts ongoing monitoring to identify trends regarding cancer and the impact of prevention programs. Dr. Snipes noted that the differences between lung cancer rates in California and the rest of the nation are due to California's tobacco control program. Cancers are classified as tobacco-related based on the 2004 U.S. Surgeon-General's report, which identified lung, bladder, larynx, oral, pancreas, and esophageal cancer as tobacco-related. Both incidence and mortality data are collected. Approximately 30 percent of cancers monitored, and approximately 45 percent of deaths, are tobacco-related. The data collection process is labor-intensive, and Prop 99 funds are integral to supporting the infrastructure to collect these data and identify trends.

With state-wide monitoring, more than 95 percent of all cancer cases are tracked, with no systematic underrepresentation observed. Data is collected directly from patient charts and tobacco use is not collected as a variable, since it is not always identifiable. Resources limit the data collected, even for

variables such as occupation. Discussion ensued on the future impact of electronic medical records (EMR), and CCR's involvement in pilot projects.

Dr. Lyman indicated that approximately 50 percent of the data in the National Cancer Registry (the Surveillance, Epidemiology and End Results [SEER] Program) is derived from CCR, giving California advantages in obtaining research funding based on the size of the data set. Public policy outcomes and identification of cancer clusters are also important CCR purposes.

Dr. Snipes indicated that the Prop 99 allocation is the largest component of CCR's state funding. CCR also receives federal funds. Prop 99 funds are also important since the funds are more protected than general fund allocations, which continue to decline. The level of NCI funding for California, as well as for direct regional funding for Los Angeles and the San Francisco Bay Area, is only possible because of CCR.

Dr. Snipes presented data on cancer-related deaths from 1988 to 2007. For lung cancer, approximately 80 percent of lung cancer mortality for men, and 75 percent for women, is tobacco-related. Over the same time period, approximately \$33 million of the \$700 million in federal research funds received were for tobacco-related research.

In examining electronic data collection to reduce costs, the requirements of the North American Association of Central Cancer Registries (NAACCR) will be integral in establishing standards. Dr. Snipes indicated that EMR implementation may result in increased costs initially, but additional outside funding and partnerships could be leveraged for implementation. Costs would then decline over time.

Dr. Snipes was asked how the availability of cancer research funds with the passage of the California Cancer Research Act (CCRA) may impact CCR. He suggested that the CCRA initiative would not provide support for core CCR infrastructure for data collection. CCR, as a key resource for risk-factor research, is integral to TRDRP-funded research, and more formal collaboration would be welcomed in the future.

Dr. Croughan commented on the requirement for Principal Investigators on research studies to pay to register for access to multiple cancer data resources (e.g., CCR and NCI-designated Comprehensive Cancer Centers). For federally-funded research, this means that additional federal funds are channeled back to fund the CCR infrastructure. For payments from TRDRP-funded research grants, TRDRP is effectively contributing twice to CCR infrastructure costs, given the ongoing allocation of Prop 99 Research Account funds to CCR. Since CCR is supporting SEER, these payments from state tax dollars are also supporting the federal program. Dr. Croughan suggested waiving fees for TRDRP-funded researchers. Dr. Snipes indicated

that providing data to SEER does not increase costs. He acknowledged the concern regarding fees but indicated that the minimal fees charged do not fully recoup the costs of data access.

Dr. Gardiner indicated that the Prop 99 enabling legislation provides that the Research Account funds should be allocated to tobacco-related research, and expressed concern that 26 percent of these funds are now allocated to CCR. He suggested that funds for CCR should be drawn proportionately from all Prop 99 Accounts, and a joint proposal should be developed for TERO to assist with identifying the way forward. Dr. Snipes suggested the allocation was consistent with the overall cancer burden from tobacco-related cancers. Dr. Lyman reported that CDPH does not solicit this allocation, and funding decisions rest with the DOF. Discussion ensued on the origins of the allocation of Research Account funding to CCR.

The Chair thanked Dr. Snipes for his presentation.

5. CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) UPDATE

Tim McAfee, Director, Office on Smoking and Health (OSH), CDC, provided an overview of federal initiatives and successes, challenges and opportunities for tobacco control. Dr. McAfee outlined the role of OSH as the lead federal agency for comprehensive tobacco prevention and control. OSH is responsible for producing the U.S. Surgeon General Reports. *How Tobacco Smoke Causes Disease* gained considerable attention last year, and will be followed by *Preventing Tobacco Use Among Young People* this year. OSH funding for the 2010 fiscal year is approximately \$108 million, and 80 percent of these funds support the National Tobacco Control Program (NTCP). NTCP provides funding for all 50 states, the District of Columbia, U.S. territories, tribes, and national organizations through 5-year cooperative agreements for comprehensive programs that reduce tobacco use through evidence-based policies. For 2010 and 2011, this has been supplemented by two year grants through Communities Putting Prevention to Work (CPPW), and by Affordable Care Act (ACA) funds (Community Transformation Grants and funds for Collaborative Chronic Disease Programs).

OSH also conducts and supports national and international surveillance, produces best practices guides, and identifies, synthesizes, and disseminates scientific findings. OSH generated \$12 million in earned media in the last year through the release of reports, and in 2011-12 will be allocating funds to a paid media campaign (\$8 million in regional buys and \$50 million to a national campaign).

Dr. McAfee highlighted tobacco prevention advocates in leadership roles (HHS Secretary Sebelius and Assistant Secretary Koh; CDC's Tom Frieden and Ursula Bauer). Tobacco is one of CDC's six Winnable Battles. The HHS

strategic plan calls for increased funding for states, a national mass media campaign, and increased funding and infrastructure support for quitlines.

With the Food and Drug Administration (FDA) authority to regulate the content, marketing, and sales of tobacco products, Dr. McAfee highlighted accomplishments to date including:

- Ban on flavored cigarettes
- Ban on misleading terms (light, low and mild)
- Proposed rule on cigarette warning labels

Future FDA tasks include:

- The need to choose warning labels and determine if a 1-800 quitline number and/or URL will be included
- Modified Risk Product determinations
- Consideration of regulating the quantity of nicotine in tobacco products

Federal cessation initiatives include:

- Requiring state Medicaid programs to offer coverage to pregnant women
- ACA funding for financial incentives to offer coverage to all Medicaid enrollees
- Expanded Medicare counseling coverage
- Phased-in mandatory private health plan coverage with no cost-sharing

The OSH goal is to make tobacco use a minor public health nuisance. In terms of prioritizing public policy initiatives, a three phase model applies:

- Phase I
 - Comprehensive smoke-free policies
 - Price increases
 - Aggressive media campaigns
 - Sustaining/increasing program funding
 - Cessation policies (increasing access, awareness and quit attempts)
- Phase II
 - Tailored interventions for high-risk groups
 - Reducing retailer density
 - Smoke-free multi-unit housing, homes, vehicles, outdoor settings
 - Reducing Tobacco Industry promotion opportunities
 - Graphic pack and retail health warnings
- Phase III
 - Product regulation
 - Decreasing abuse liability of cigarettes and other tobacco products
 - Dramatically decreased-risk products for nicotine delivery
 - Further marketing restrictions (e.g. plain packaging)

- New approaches
 - Local and state experimentation will continue to be key
 - Further industry regulation
- Keep doing what works

To address disparities, Dr. McAfee discussed strategies under the WHO MPOWER model (Monitor, Protect, Offer, Warn, Enforce, Raise). Monitoring includes population assessments, and the reach of survey instruments needs to be considered (cell phone usage, household surveys etc.). To prevent youth initiation, OSH focuses on policy initiatives, including increasing prices, restricting promotion and sales, and reducing media portrayals that glamorize smoking. Dr. McAfee noted that the decline in high school smoking prevalence has leveled off in California, with national rates decreasing at a greater pace, and suggested price may be a factor. Non-daily smoking doubled in California from 1992 to 2008, which suggests a new set of challenges to be met. Dr. McAfee provided a status update on the MPOWER package for the U.S.:

- **Monitor:** the decrease in smoking rates has stalled and funding for state programs is decreasing.
- **Protect:** Protection from SHS has been a success story, with almost half of Americans protected by smoke-free laws, but 88 million U.S. nonsmokers are still exposed, with disparities in exposure.
- **Offer:** All states have quitlines.
- **Warn:** FDA warning labels will strengthen this area, but media campaigns are underfunded.
- **Enforce:** FDA can restrict some forms of marketing, and state and local authority has been restored (with First Amendment constraints).
- **Raise:** Federal cigarette tax is now \$1.01/pack. The average state cigarette excise tax increased from \$1.11 on Dec. 31, 2007 to \$1.45 today (a 31 percent increase), but the total state spending on tobacco control decreased from \$717 million in FY2008 to \$518 million in FY2011 (a 28 percent decline).

States are outspent 24:1 by the Tobacco Industry, while state tobacco revenue is 50 times greater than state tobacco program budgets. Funding for state media campaigns is falling. In the 1990s, states linked tax increases to funding tobacco control programs. Since 2000, using tax revenue for tobacco control has become rare. In the last three years, 19 states raised tobacco taxes, but only one provided any dollars for tobacco control. Linking tax increases to tobacco control funding can maximize the impact of tax increases; support media campaigns; support cessation/quitline services; reduce population disparities; and help address concerns about regressivity.

Dr. McAfee acknowledging California's successes in being the:

- First state to implement a comprehensive state tobacco control program

- First state to dedicate tax revenue to a program
- Pioneer in the social norms approach
- First state to conduct hard-hitting media campaign with industry manipulation as a theme
- First state to establish a quitline, and conduct seminal research in efficacy
- First state to restrict smoking in workplaces, restaurants, and bars
- First state to enact local laws making multi-unit housing smoke-free
- First state to conduct systematic evaluation and surveillance, including identifying and addressing population disparities
- Only state to sustain program funding for so long
- First state to document that its program led to improved health outcomes

He also outlined California's current status using the MPOWER model:

- **Monitor:** Low adult and youth smoking rates, but declines are leveling off. Non-daily smoking has increased. Population disparities (e.g., rural populations, low SES) continue. FY2011 funding is at 17 percent of CDC level, ranking California 23 in the nation.
- **Protect:** State smoking restrictions were the model when enacted, but due to several exemptions, we have fallen behind. We have continued success in local smoke-free policies for outdoor settings and apartments.
- **Offer:** California has a model quitline, but its reach is modest relative to its potential. Medicaid covers all FDA-approved medications, but not counseling, and private cessation coverage varies widely.
- **Warn:** Hard-hitting media campaign, but fluctuations in funding, reach, and strength of ads.
- **Enforce:** Proactive policing of Master Settlement Agreement (MSA) violations; retailer and vending machine licensure; ban on vending machines in areas accessible to youth; local licensing and tobacco retail outlet density (Santa Clara County).
- **Raise:** State cigarette tax of 87 cents ranks 33 in the U.S. and one of only three states with no tax increase since 1999. A high-tech tax stamp means smuggling is not a big problem.

While California has made great strides in reducing tobacco use, Dr. McAfee suggested the next challenge is to implement price interventions with earmarked program funding. Earmark provisions of CCRA are in accord with that objective and would continue the tradition of Prop 99. Dedicating a significant portion of new revenue for tobacco control will lead to major progress in lowering prevalence, and set a critical example for other states and countries.

Dr. Yerger referred to research on menthol and nicotine dependence which suggests that the tobacco industry can deliver the same satisfaction to smokers from cigarettes with lower nicotine levels if menthol is added, which supports a ban on menthol. Dr. McAfee acknowledged concerns that the

tobacco industry could respond in new ways to any regulatory strategy, and new monitoring and measurement strategies are required.

Ms. Uyeda asked if the CDC has guidelines for schools, and Dr. McAfee referred to the CDC focus on policy initiatives given a lack of data on what should be prescribed for effective school curricula. Dr. McAfee indicated that with diminishing state resources, CDC is considering how to provide guidance on triaging with limited resources. Dr. Green suggested a refocusing of efforts around youth smoking may be required in California. Dr. McAfee indicated that for states that have achieved clean indoor air standards, it may be appropriate to reallocate limited resources to other policy areas.

Mr. Offen asked about the prohibition of the terms light, low and mild, and the substitution of color-coding. Dr. McAfee indicated it had been a missed opportunity for an extensive communications strategy since the FDA Center for Tobacco Products was in its infancy. The FDA is considering the issue and acknowledges that regulatory actions alone are not sufficient in the absence of comprehensive tobacco control program strategies.

The Chair thanked Dr. McAfee for his presentation.

6. DISCUSSION OF FUTURE TEROC ISSUES

The Chair introduced the Master Plan (MP) writing team of Carol D'Onofrio and Todd Rogers. The Committee considered preliminary responses from the MP Field Input Survey. It was suggested cross-tabulated responses might be valuable in considering the final responses.

The Committee reviewed the MP Production Timeline and agreed the next Master Plan meeting would be scheduled for April 12, 2011, at a Northern California location to be determined. The Committee agreed to indicate availability and confirm future meeting dates by electronic polling.

7. LEGISLATIVE & VOLUNTARY HEALTH AGENCY UPDATE

Jamie Morgan of the American Heart Association (AHA) provided an update on voluntary health agency activities and the status of legislation for this legislative session. Ms. Morgan discussed CCRA and estimated additional revenues of almost \$600 million per year for tobacco-related disease research and more than \$170 million per year for tobacco control. Discussion ensued on the use of funds, which is not specified in the initiative's language, but could include addressing disparities, grants, media, and enhancement of the Helpline. While cancer is in the initiative's title, Ms. Morgan clarified the voluntary health agencies had worked to expand the language in the initiative to include tobacco-related diseases and an earmark for tobacco control. An oversight committee would be responsible for distributing research funds.

Ms. Morgan indicated it may not be known until March if there will be a June 2011 ballot. If there is no June ballot, CCRA will be part of the next statewide election (the presidential primary in February 2012, which could be pushed back to March 2011). The uncertainty leads to challenges for campaign fundraising, but also may restrict the influence of the Tobacco Industry on the campaign. Ms. Morgan requested endorsements for CCRA.

Discussion ensued on countering the claim that tobacco taxes are regressive. Ms. Morgan indicated that talking points will be prepared to address that issue, and concerns over smuggling by highlighting the additional funding for enforcement. Dr. Yerger suggested utilizing community spokespeople from priority populations in the campaign efforts.

Ms. Morgan encouraged members to visit the campaign website at www.californiansforacure.org where personal stories can be shared. Ms. Stevens asked how the cancer research community was being mobilized given CCRA's allocation to funding research. Ms. Morgan acknowledged efforts were continuing to encourage wider mobilization. Discussion ensued on celebrity endorsements and involving communities of color.

It was noted the TEROC had endorsed CCRA at a prior meeting.

Action Item

Dr. Green moved that TEROC re-endorse CCRA and a letter of support be prepared. Seconded by Dr. Henderson. Motion passed, with Dr. Yerger abstaining.

Ms. Morgan suggested that Senator DeSaulnier would be introducing a bill to remove certain exemptions in California's smoke-free workplace law. This would mean the CDC could recognize California as a smoke-free state. Exemptions to be addressed include hotel lobbies, nursing homes, and breakrooms. Owner-operated businesses would also be subject to the law's smoke-free provisions, and 80 percent of hotel guestrooms would be required to be smoke-free. Discussion ensued on involving communities of color as co-sponsors or supporters.

Ms. Morgan requested endorsements for closing the exemptions and loopholes in California's smoke-free workplace law. Members noted that CalEPA's finding linking breast cancer to SHS exposure and Judge Kessler's ruling regarding racketeering by the tobacco industry are not included in the endorsement resolution and could be added.

Action Item

Dr. Henderson moved that TEROC endorse a legislative effort to eliminate SHS exposure at all California indoor worksites and efforts towards making

California 100 percent smoke-free. Seconded by Mr. Offen, motion carried unanimously.

Ms. Morgan indicated Senator Yee would be reintroducing a bill to require health plans to provide tobacco cessation benefits, with more specific provisions on courses of treatment than the provisions of the ACA.

The Chair thanked Ms. Morgan for her presentation.

8. TOBACCO LITIGATION AND ENFORCEMENT UPDATE

The Chair introduced Dennis Eckhart, Tobacco Litigation and Enforcement Section, Office of the Attorney General, and outlined his career achievements. Mr. Eckhart referred to distributed documents (a fact sheet on nontaxed sales of cigarettes and other tobacco products on Indian reservations, and a perspective document prepared for working with tribal officials).

Cheap cigarettes are being sold to non-Indians at many casinos, gas stations and smoke shops in Indian Country throughout California, and typical prices are at least \$14 a carton less than the price at retailers complying with state law (\$8.70 from unpaid state excise taxes and \$5.30 from unpaid escrow deposits). State law requires that all cigarette manufacturers either join the Master Settlement Agreement or make annual escrow deposits to cover future liabilities to the state.

Mr. Eckhart displayed a packet of Canadian-manufactured Seneca brand cigarettes imported through New York that he had purchased at an on-reservation gas station in Southern California for \$1.75. Lawsuits have been filed with the manufacturer, importer, and smoke shops. The cigarettes are also non-fire-safe-certified.

The 2009 lawsuit against the importer was dismissed, despite the fact that 234 truckloads of cigarettes had been delivered to one tribe over three years for sale at 70 locations, representing \$13 million in unpaid excise taxes. The limited sovereign immunity of the tribe from litigation and state regulation led to the dismissal but the case is on appeal. A lawsuit against a distributor of 7,000 cases of these cigarettes in the Palm Springs area led to an injunction shutting down the operation in March 2010 which is also on appeal. The Agua Caliente tribe is supportive of the state's efforts to enforce state law.

In the 1980s, the U.S. Supreme Court established that cigarettes sold to non-tribal members are subject to state taxes. Outreach and education on the laws applying to cigarette excise taxes is important. Pressures are high for tribal Chairmen to promote gaming and tobacco sales due to high potential profits, and the two businesses often operate together. Barriers to addressing the tax issue include resources for enforcement, and tribal sovereign

immunity for on-reservation activities that exempts or limits the application of certain state regulations. With 108 federally-recognized tribes in California, and 58 operating casinos, the potential to draw off-reservation cigarette purchasers is high in both rural and urban areas. Although no tribal tobacco growing or cigarette manufacturing businesses are operating in California at this time, this could be a future possibility complicating state regulatory authority since all activities could be on-reservation, with no cigarette importing involved.

Unlike many states, California has never attempted to negotiate tobacco tax compacts or agreements with any of its 108 federally recognized tribes. Tax compacts have been raised with the BOE and the Governor's Office.

Mr. Eckhart indicated that with the passage of the federal Prevent All Cigarette Trafficking Act, reporting of interstate cigarette shipments, including sales between tribes, is required. This may improve surveillance. With the exception of tribes such as the Agua Caliente who purchase cigarettes with tax stamps from a licensed distributor, excise tax remittance from tribal sales is not occurring. The Litigation and Enforcement Section is also focusing on untaxed internet sales. Discussion ensued on building relationships with tribal tobacco control advocates, and learning from the Canadian experience.

With Mr. Eckhart's retirement, the Chair presented him with a Certificate of Appreciation for his work and achievements in tobacco control.

**9. UNIVERSITY OF CALIFORNIA, OFFICE OF THE PRESIDENT (UCOP),
RESEARCH GRANTS PROGRAM OFFICE (RGPO) AND TOBACCO
RELATED DISEASE RESEARCH PROGRAM (TRDRP) REPORTS**

Mary Croughan and Bart Aoki reported on UCOP, RGPO and TRDRP activities. Dr. Croughan provided an update on the reorganization of the Office of Research and Graduate Studies (ORGS). The new organizational structure will begin February 1, 2011. TRDRP will have six full-time equivalent (FTE) staff, and recruitment for a dedicated TRDRP Director and a Policy Program Officer has begun. An additional 10.3 FTEs will provide support in the centralized Contracts and Grants, Evaluation and Dissemination, and Budget, Finance and Administration Units. The Evaluation and Dissemination will convene a symposium every three years and other activities in the intervening years.

Dr. Aoki provided an overview of the program's 20th grant cycle with a January 12, 2011 submission deadline. Approximately 66 of the applications pending review address Master Plan objectives.

There is a new requirement that California Research Awards must involve investigations related to California's tobacco control efforts and programs

and/or tobacco control policies in the state of California. Examples of applications submitted include:

- Are Tobacco Taxes Regressive for Low Income Californians?
- Establishing Smoke Free Policy in California Indian Casinos
- Evaluating a City's Smoke Free Policy in Multi-Unit Housing

TRDRP's recent Strategic Research Initiatives were discussed. For the Initiative on Tobacco-Related Disparities among African Americans in California, a Consensus Meeting was held on November 4, 2010. Thirty-two researchers, activists, and agency representatives attended. The Initiative is part of a larger reorientation within TRDRP to make health disparities a cornerstone and guide possible future state-wide and UC disparities initiatives. Potential research priorities identified included smoking prevalence; blunts, little cigars, and flavored cigars; and menthol issues.

As part of the current ongoing TRDRP strategic planning process, a survey of stakeholders was conducted in the last quarter of 2010. One hundred forty-three stakeholders responded, and potential TRDRP Initiative priorities identified included:

- Vulnerable populations
- Indoor tobacco smoke/multi-unit housing
- Policy
- Youth include Tobacco Use Prevention Education (TUPE) evaluation
- Outdoor tobacco smoke
- Menthol
- New products

Respondents were asked to indicate the importance to TRDRP's mission of certain alternative funding approaches. The priority rankings, from high to low, by respondents were:

- "Seed" new ideas
- Support and develop new investigators
- Fill the federal research gaps
- Target funds to high priority research areas
- Fund areas with highest potential to bring federal support

61 percent of respondents also preferred funding Targeted Initiatives over solely funding Investigator-Initiated Awards.

Respondents were also asked how TRDRP could be more responsive to needs, and the highest ranked responses were:

- Scientific Conferences (regional)
- Webinars
- Community Forums
- Legislative Briefings

In identifying strategies to maintain or expand grant funds, the strategies with the most support were:

- Pursue co-funding/partnering with other agencies
- Fund-raising, in general
- Working towards raising tobacco taxes

The next steps in TRDRP planning include ongoing field input and SAC Planning (on grants and priorities, dissemination, and critical issues), culminating in a new Request for Proposal (RFP) or new grant mechanisms in August, 2011, with a mid-January due date.

Discussion ensued on the Policy Initiative. Research reports and a fact sheet are planned to be released in February. The Chair asked if a rapid response mechanism for evaluating critical policy issues like the impact of proposed tobacco tax increases had been considered. Dr. Aoki indicated policy considerations are part of all the special initiatives but a more rapid option could be considered by SAC.

The Chair thanked Dr. Croughan and Dr. Aoki for their presentations.

10. CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH), CALIFORNIA TOBACCO CONTROL PROGRAM (CTCP) REPORT

Donald Lyman and Colleen Stevens provided an update on CTCP activities. Dr. Lyman reported that Ms. Stevens was offered and has accepted the Branch Chief position for CTCP. The effective date is pending approval of a hiring freeze exception request.

The 2008 California Tobacco Survey (CTS) results were released at a press conference on December 20, 2010.

Approval is still pending for contract language for \$25,000 augmentations for the Center for Tobacco Policy and Organizing (the Center) and the Technical Assistance Legal Center (TALC) from federal ACA Funds.

At the December 20, 2010 press conference, five new general market TV advertisements (ads) were also debuted and several are airing. One ad launches a new strategy educating Californians on the impact of cigarette butts on the environment. Significant media attention was devoted to the urban/rural disparities in the CTS data.

The California Health Collaborative was to take over as the Merced County LLA from Oct 1, 2010 but the contract is still awaiting approval from the Contracts Management Unit.

The Center is coordinating New Legislator Orientations (meetings in district offices) during the week of January 24-28, 2011.

CTCP staff presented at the California Department of Education's (CDE) TUPE Coordinator meeting on November 5, 2010, on how CTCP addresses SHS protections through work with LLAs, and strategies to decrease disparities amongst priority populations. Regional Law Enforcement Roundtables, focused on enhancing the enforcement of illegal sales to minors' laws at the local level, are planned for March 2011 in Bakersfield and Grass Valley.

Discussion ensued on the UCSF suspension of certain Capacity Building Network subcontract activities. Ms. Stevens indicated a number of meetings are scheduled in attempt to resolve contract issues and move forward.

Discussion ensued on the roll-over of CDC funds for rural media buys. Creative concepts to better reach African Americans are also being developed. Dr. Green asked about reaching youth. Ms. Stevens indicated the age of smoking initiation in California had increased, but declines in prevalence had flattened. This may be due to the declining price of cigarettes in real terms.

The Chair thanked Dr. Lyman and Ms. Stevens for their presentations.

11. CALIFORNIA DEPARTMENT OF EDUCATION (CDE) REPORT

Tom Herman and Greg Austin presented the CDE update. Dr. Austin provided information on the California Healthy Kids Survey (CHKS), and indicated it is underutilized at the research level. CHKS is now part of the California School Climate, Health, and Learning Survey System (Cal-SCHLS), together with the School Climate Survey for staff (CSCS) and the School Parent Survey (CSPS).

CHKS is funded by the CDE, partially with TUPE funds, and is the largest, most comprehensive effort in the nation to provide local schools and communities with their own customizable data on student tobacco use and other health risk and resilience factors to guide data-driven program decision making. The Obama administration has identified CHKS as the model system for the nation.

The biennial survey began in 1999 as a requirement for all TUPE grantees. From 2003, it became part of No Child Left Behind Title IV compliance. CHKS:

- Focuses on Grades 5, 7, 9, 11, & Continuation Schools
- Is administered by 85 percent of school districts with secondary schools (850), which accounts for 98 percent of state enrollment. Approximately

85 percent of these districts require all schools to administer the survey, which reaches 7,100 schools, and an annual average of 500,000 students, and 49,000 staff.

- Comprises a required Core Module and a supplemental Tobacco Module

Within the Core Module, there are 13 tobacco-related questions, including:

- Lifetime and current cigarette and smokeless tobacco use
- Current smoking on school property
- Perceptions of harm
- Difficulty in obtaining cigarettes
- Perceived peer smoking
- Friends' disapproval
- Exposure to prevention messages

A report is prepared for each school district that includes:

- Main Report of all results by grade
- Data by race/ethnicity for current smoking
- Summary Report for dissemination
- Supplementary Reports by
 - Migrant Education Program status
 - race/ethnicity if the Closing the Achievement Gap module is used

Reports at the district, county, and state level are publicly posted on the CHKS website: <http://chks.wested.org/reports>, and also at <http://www.kidsdata.org> with queries and downloads also available.

School-level reports can also be requested, and 60 percent of districts are now making this request. Resources are also available on content and dissemination. Data is used locally to:

- Raise awareness of needs
- Increase TUPE and other program funding by demonstrating need
- Guide program decision-making
- Monitor progress on trends and integrate into program evaluation efforts
- Enhance school-community collaboration
- Obtain representative data for county planning and financial support from the local administration and allocate county resources

Upcoming state-wide reports include *Characteristics of Current Tobacco Smokers* and *Student well-being in California, 2007-09: Variations by race/ethnicity*.

The analytical value of CHKS includes:

- The size of the data set
- Examining trends since 1999 and identifying where tobacco use is highest
- Characteristics of users, including:
 - Race/ethnicity
 - Foster youth, homeless

- Continuation school students
- Smokeless users
- Tobacco use in the context of other risk behaviors and health issues
- Differences based on prevention efforts and program funding.

Several Factsheets have also highlighted CHKS findings including:

- Tobacco use among 11th graders declined markedly in all California schools over the 1998-2003 period
- Smoking declined more among schools that received TUPE grant funding versus schools that did not
- Current smokers, especially in 7th grade, are significantly more likely than nonsmokers to be:
 - Users of alcohol and other drugs
 - Involved in violence and gang membership
 - Experiencing school problems and disengagement

These findings imply that efforts to reduce student smoking will be enhanced if a broad range of risk behaviors are addressed and overall health and well-being is promoted.

In response to questions, Dr. Austin clarified that school staff are asked about the school environment in the CHKS, and not their own tobacco use or the school's tobacco-free policy. Members noted the absence of a significant number of tobacco-related research studies from the distributed Survey Reader of research based on the CHKS. Dr. Austin confirmed that Youth Risk Behavior Surveillance System (YRBSS) questions are part of CHKS.

Dr. Austin was questioned on the end of the Safe and Healthy Kids and TUPE entitlement systems' mandates for administering CHKS. Options to safeguard CHKS would include legislation for a state-wide mandate; foundation grant funds; and linking any state funding to CHKS compliance. The Superintendent of Schools is also interested in introducing a School Climate Index which could be linked to CHKS. A Safe and Supportive Schools federal grant has been received that will support CHKS in approximately 60 districts. Many districts are continuing to administer the survey currently in recognition of the county and community reliance on the data.

Mr. Herman reported on collaboration with CDPH and the bonus points in the 2011 Cohort G TUPE Request for Application (RFA) for working with priority populations.

The Chair thanked Mr. Herman and Dr. Austin for their presentations.

12. PUBLIC COMMENT

Carol McGruder indicated that the African American Tobacco Control Leadership Council would be approaching TEROC to have the issue of the Ethnic Networks discussed at a future meeting.

The meeting was adjourned at 4:10 p.m. Next meeting: April 12, 2011.